

Planning Board

Town of Newbury, New Hampshire

Rules of Procedure

Adopted July 5, 2005

I AUTHORITY

- 1.1 These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, Chapter 676:1. They supercede any and all rules which may have been adopted in the past.

II MEMBERSHIP POLICY

- 2.1 With the exception of the ex-officio who is appointed by the selectmen, regular Planning Board members are elected and any resident of Newbury may seek election. The policy of the board is that all members are to fully participate in the activities of the board and carry their fair share of the workload. The work of the board is rather technical and requires knowledge of town and state regulations relating to land use and the underlying principles of land use planning. To help gain experience, the board encourages people that are interested in serving to initially serve as alternates. Alternates are appointed by majority vote of the board. Prior to such appointment, it is the Board's policy to interview such candidates to determine and evaluate qualifications, and possible conflicting interests.

III ORGANIZATION

- 3.1 **Officers.** The Planning Board, at its first regular meeting following the Annual Meeting of the town, shall be called to order by the Chair for the previous year if the Chair is still a member of the Board, otherwise by the most senior regular member present in years of service on the Board. At this meeting, the regular members of the Board shall elect one of its regular members as Chair, and one as Vice Chair. It shall be incumbent upon each member to serve as an officer of the Board if elected by a majority of the members present at the annual organizational meeting. The Ex-Officio member is not qualified for either office.

- 3.2 Members.** The Planning Board shall consist of seven members. Six of these shall be elected for three-year staggered terms and one selectman or administrative official of the town shall be chosen by the selectmen as an ex officio member. If a vacancy exists, the remaining members of the Board shall appoint a new member to serve until the next election, at which time the vacancy will be put on the ballot. The term on the ballot shall be the remainder of the original term.
- 3.3 Alternates.** Up to five alternate members may be appointed by the Board for a term of three years each. The terms shall be staggered in the same manner as the elected members. The Board of Selectmen may appoint an Alternate Ex-Officio to serve in the place of the Ex-Officio when that person is not present.
- 3.4 Oath of Office.** Each newly elected or appointed (including re-elected or re-appointed) member or alternate shall be sworn in and take an oath of office as required by **RSA 42:1**. The moderator, town clerk, one of the selectmen or a justice of the peace is authorized to administer the oath.

IV DUTIES OF OFFICERS

4.1 Chair Person.

- 4.1.1 The Chair shall preside over all meetings and hearings (including any joint hearings with the ZBA), encourage attendance at hearings by a quorum, appoint such committees as directed by the board and shall sign documents in the name of the board.
- 4.1.2 The Chair shall write a report detailing Board accomplishments for the annual Town Report. Also the Chair shall prepare a budget with the advice and consent of the Board, and negotiate with the Board of Selectmen for its inclusion in the town warrant.
- 4.1.3 The Chair shall be responsible for the preliminary review of applications for completeness. Those with obvious deficiencies shall be returned with comments. This task may be delegated, with a simple check list, to another person.
- 4.1.4 The Chair shall be responsible for the employment of a secretary who shall maintain a record of all meetings, transactions and decisions of the board, and perform such other duties as described below, or as the board may direct by resolution.
- 4.1.5 The Chair, with the assistance of the Secretary, shall prepare and issue a meeting agenda prior to each meeting.
- 4.1.6 The Chair shall be the sole spokesperson for the Board when dealing with outside entities such as other boards, the press, legal counsel, and the planning consultant outside of Board meetings. When appropriate the Chair shall seek the counsel of the Board.

4.2 Vice Chair Person.

- 4.2.1 The Vice Chair shall preside in the absence of the Chair and shall have the full powers of the chair on matters which come before the board during the absence of the chair.
- 4.2.2 The Vice Chair shall be responsible for developing, maintaining and implementing a suitable training program for new members and alternates.
- 4.2.3 The Vice Chair shall be responsible for keeping all members abreast of ongoing educational opportunities that would be beneficial to members and serve the needs of the board.

4.3 All officers shall serve for one year and shall be eligible for re-election.

V DUTIES OF MEMBERS AND ALTERNATES

5.1 Member Responsibilities.

- 5.1.1 Members are expected to attend each meeting of the board to exercise their duties and responsibilities. **Any member unable to attend a meeting shall notify the chair as soon as possible.**
- 5.1.2 Members and alternates should pick up and review all site plan and subdivision documentation that has been left at the Town Office prior to the Planning Board meeting at which the application will be heard. In addition, members should make every effort to inspect the site in question before the hearing by making a site visit or drive-by. See Section VII.
- 5.1.3 Members shall participate in the decision making process and vote on all motions except in those cases where the member has a conflict of interest or is disqualified. Abstaining is a refusal to vote and thus is discouraged. It is a member's duty to help make a decision. If a member does not have enough information about the issue, or disagrees with the reasoning of the motion, the member should vote "no" or find another avenue to reach a decision.
- 5.1.4 Members shall not respond to any attempt by a non-board member to review or discuss the merits of a case while it is before the Board, and they shall not respond to invitations for personally guided site visits. Members shall not discuss the substance of a case with other members outside of the public hearing.
- 5.1.5 Members shall be familiar with and understand these Rules of Procedure, the Master Plan, Zoning Ordinance, Building Regulations, Site Plan Review Regulations, Subdivision Regulations, Driveway Regulations, and Title LXIV of the New Hampshire Revised Statutes (RSA 671 thru 677). In addition they should be familiar with the basic principles of land use planning to aid in interpreting the

regulations in specific cases.

- 5.1.6 New members who have not been alternates shall immediately embark on a training program overseen by the Vice Chair. It is strongly recommended that members attend training seminars sponsored by the New Hampshire Office of Energy and Planning. Expenses will be paid by the Board. Whenever possible new members are encouraged to ask questions about matters they do not understand.

5.2 Alternate Responsibilities.

- 5.2.1 Alternate members shall stand ready to serve whenever a regular member of the board is unable to fulfill his/her responsibilities. Alternates are encouraged to inspect sites in question before hearings, and attend all meetings to familiarize themselves with the workings of the board.
- 5.2.2 An alternate's most important duty is to become educated in the area of land use planning and regulation as it applies to Newbury. To that end the alternate should become familiar with the documents enumerated above and with the basic principles of land use planning. Alternates shall participate in the Board's training program as established by the Vice Chair which may include training sessions sponsored by the Office of Energy and Planning. The training of alternates shall be overseen by the Vice Chair.
- 5.2.3 When alternates are not serving in place of a member, they are encouraged to participate in hearings by asking questions and joining in the discussion during deliberations. Alternates may participate and vote in administrative matters such as approving minutes and setting meeting times if they are appointed in that meeting to serve in place of a regular member.
- 5.2.4 If an alternate member indicates by behavior or absenteeism a lack of interest in serving the board, the board may, by a majority vote, request his/her resignation. Failure to resign may result in removal by the board under the terms of **RSA 673:13**.

VI DUTIES OF THE SECRETARY

- 6.1 **Meeting Minutes.** The Secretary shall be responsible for the following tasks during and after meetings and hearings:
 - Tape record hearings
 - Take notes for minutes
 - Type up minutes (Draft copy must be available to the public; i.e., placed in the public access book, within 144 hours.)
 - Distribute draft minutes to all members and alternates on paper or in “.pdf” format
 - Correct minutes after draft review by Chair and by the Board
 - Distribute final minutes to all members on paper or in “.pdf” format within five business days following their approval, file paper copies in the Planning Board File and in the public access book

If the position is paid by the Board, submit a time report monthly

VII DUTIES OF THE LAND USE BOARD COORDINATOR

7.1 Hearing Preparation. The Land Use Board Coordinator shall prepare for Site Plan Review/Subdivision Hearings as follows:

Collect application and supporting documentation, start a file

Assign a Case Number

Copy the application fee check and pass it to one of the town administrator's staff

Assist Chair with scheduling

Have notice published in newspaper

Send notices to abutters by certified mail (return receipt is not required)

7.2 Hearing Conclusion.

7.2.1 Subdivision/Annexation:

Send mylar to Registry with request for 4 copies

one copy to applicant

one copy to tax map firm

one copy for Planning Board file

one copy to Assessor (to be filed in property file)

Prepare notice of decision

7.2.2 Site Plan Review:

File plat in Planning Board file

Prepare notice of decision

File bonds/letters of credit in the case file

7.3 Miscellaneous.

Keep a supply of published regulations, forms, and schedules ready for distribution.

Assist potential applicants by supplying forms and answering questions.

Review submitted applications for basic completeness using checklist provided by the board.

Update the Planning Board minutes index monthly from the final version of the minutes.

Maintain tickler file of bonds/letters of credit. Inform Chair two months before expiration.

Maintain computer files of all Board documents and forms.

Keep a supply of tapes, note pads, notebooks, postage, etc. on hand.

If the position is paid by the Board, submit a time report monthly.

VIII SITE VISITS

8.1 Site Visit. A "site visit" is defined as a visit by the Board or a member of the Board to a location which is the subject of an application before the Board, and involves going onto the property or visiting areas which are not customarily available for public inspection.

8.2 Drive-by. A "drive-by" is defined as a visit by the Board or a member of the Board to

locations which include a view of a site from an adjoining public highway or other observation point that can be made without entering on the property.

- 8.3 Request.** When the Board deems it necessary for the adequate consideration of an application, the Chair shall request the applicant to allow a site visit by the Board or Board members. At the same time the Chair shall ask if unaccompanied visits will be permitted.
- 8.4 Scheduling.** The Chair shall schedule a site visit for Board membership, and it shall be noticed as a meeting of the Board in accordance with RSA 91-A. If unaccompanied visits are permitted, members may visit individually.

Any member not able to make a site visit may make a drive-by.

- 8.5 Minutes.** Minutes of site visits shall be kept only if there is a quorum of the Board conducting the site visit.

IX MEETINGS

- 9.1 Meetings.** Regular meetings shall be held at the Newbury Town Office Building, at 7:00 p.m. on the third Tuesday of each month. Any permanent change to the place, date, or time of regular meetings shall be made by amending this document and giving public notice as required by law. If work sessions are needed, the board may meet on the first Tuesday of the month at the same place and time, or on a day agreed upon by the Board. Other meetings which involve a hearing may be held on call of the chair provided the public notice requirements for a hearing have been met. For a non-regular meeting with no hearing, Board members and alternates shall be informed at least 48 hours in advance and a notice shall be posted in two public places no less than 24 hours prior to the meeting excluding Sundays and legal holidays as per RSA 91-A:2,II.
- 9.2 Addressing the Board.** All communications to and within the Board shall be made through the Chair. Any person not on the Board who is recognized by the Chair shall state his/her name and address before speaking.

Members of the public wishing to address the Board shall apply for a hearing or contact the Chair to request to be placed on the agenda. Members of the public are encouraged to address the Board on the matter at hand during the public input section of a hearing. At the discretion of the Chair, a person may address the Board at any other time.

The Chair shall rule as being out of order any person who is talking about matters not under discussion, who is making a point more than once, or is disruptive, and order them to cease and yield the floor.

- 9.3 Quorum and Voting.** A quorum for all meetings of the board shall be four members, including alternates sitting in place of members.

If any regular board member is absent from any meeting or hearing, or disqualifies himself/herself from sitting on a particular case, the chair shall designate at the beginning

of the meeting or hearing one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall be in all respects a full member of the board while so sitting. The Alternate Ex-Officio shall sit in the place of the Ex-Officio when he/she is not present, and shall not sit in the place of any regular member.

Proposed decisions by the Board shall be put forth in the form of a motion. A motion, duly seconded shall be carried by a majority of members qualified to vote and voting in the affirmative. Only members who are present are qualified to vote. "Member" includes the Chair and any alternates sitting in the place of members.

When the vote on a question is evenly divided, the question shall be deemed to have been defeated.

- 9.4 Disqualification.** If any member finds it necessary to disqualify himself from sitting in a particular case, as provided in **RSA 673:14**, he shall notify the chair as soon as possible so that an alternate may be requested to sit in his place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the board may request the board to deliberate and vote on the question of disqualification. Any such request shall be made before the public hearing starts. The vote shall be advisory and non-binding. A member cannot be compelled to disqualify himself, he must do it of his own volition. It is the policy of this Board that abutters to the applicant shall disqualify themselves.

The disqualification shall be announced by either the chair or the member disqualifying himself before the beginning of the public hearing on the case. The disqualified member shall not participate as a board member and shall not sit at the board table during the public hearing and deliberation on the case.

If any alternate finds it necessary to disqualify himself from sitting in a particular case at the time the chair calls on him/her to sit in place of a member, he/she shall notify the chair and shall not sit at the board table during the public hearing and deliberation on the case.

- 9.5 Order of Business.** The order of business for regular meetings shall be as follows:

- a. Call to order by the chair
- b. Roll call by the secretary
- c. Review and approve minutes of the previous meeting
- d. Announcements/Correspondence
- e. Designation of voting members/Disqualification
- f. Public hearing(s)

- g. Old business
- h. New business
- i. Adjournment

The order of business may be changed at the discretion of the Chair or by a majority of the Board

X HEARINGS

10.0 General. There are two kinds of hearings. One is to get public comment before adopting regulations, amendments, or the master plan. The other is to exercise the Board's power to review subdivisions and site plans.

10.1 Hearings Related to the Adoption of Regulations or Zoning Ordinance Amendments. The procedures for adoption and notice are given in RSA 675:6 and 675:7.

Public notice for a hearing shall be given ten or more clear days before the hearing by posting a notice in two public places in the town, and by publishing a notice in a newspaper of general circulation in the town. The full text of the subject of the hearing need not be placed in the notice, but the notice shall give a clear description of the matter and state where the document may be reviewed. The notice shall also state the date, time, and place of the hearing.

10.1.1 Order of Business. The order of business for the hearing shall be as follows:

- a. The chair shall call the hearing to order and note the time.
- b. The Chair shall explain the hearing procedure and give rules of conduct.
 - 1) Address all questions and comments to the Chair
 - 2) Identify yourself before you speak
 - 3) Do not engage in side conversations
- c. The Chair shall read the text of the notice.
- d. The Chair shall explain the hearing procedure
- e. It is suggested that the subject matter be divided into manageable segments, such as an amendment, a group of related amendments, a paragraph, or a page. The Chair or a designated member shall read the segment aloud. If everyone has access to a printed copy of the matter under discussion, it may be summarized instead of being read verbatim.
- f. The Chair or designated member shall state the rationale for the amendment, paragraph, or regulation.

- g. The Chair shall invite comment from the public. When there is no more comment from the public, the Chair shall close public comment and proceed to the next segment.
- h. All members of the public have a right to be heard within the time allowed. If there is insufficient time, the hearing shall be continued to a date, time, and place certain.
- i. After the review of the document is complete, the Chair shall declare the hearing closed.
- j. The Board shall deliberate to see whether it wants to incorporate the public comments or adopt the document or amendments.
- k. The Board may vote to adopt the document or amendments in whole or in part. When zoning ordinance amendments are under consideration, the Board shall vote whether to place each amendment on the town meeting ballot.
- l. In the event that no member of the public is present when the hearing is opened, the Chair may suspend the proceeding until one appears, or until one half hour has passed. If no one appears within that time, the Chair shall declare the hearing closed, and Board shall deliberate and vote.

10.2 Hearings Related to the Review of Subdivisions and Site Plans. The procedures for application and public notice are given in the regulations for each type of review.

10.2.1 Order of Business. The order of business for the hearing shall be as follows:

- a. The Chair shall call the hearing to order and note the time.
- b. The Chair shall explain the hearing procedure and give rules of conduct.
 - 1) Address all questions and comments to the Chair
 - 2) Identify yourself before you speak
 - 3) Do not engage in side conversations
- c. The Chair shall read the text of the notice.
- d. The Board shall review the application with the list of application submittal requirements specified by the applicable regulations to see if it is complete. Official acceptance or rejection shall be by motion and vote. If rejected, the Board shall identify the deficiencies in writing to the applicant by a copy of the minutes or a letter.
- e. The Chair shall ask the person who will speak to the application to identify him/her self, and state whether he/she is the owner or authorized agent.

- f. The Chair shall invite the applicant or agent to make a presentation.
- g. The Chair shall ask the Board for questions or comments.
- h. The Chair shall open the hearing to comments or questions from the Public.
- i. The Chair shall read into the record written comments from the Public.
- j. The Chair shall invite the applicant or agent to provide additional information in response to public comments or questions.
- k. The Chair shall close the hearing to public comment.
- l. The Chair shall invite the applicant or agent to provide additional information.
- m. The Chair shall ask the Board for any additional questions or comments.
- n. The Chair shall invite the applicant or agent to provide additional information in response to any questions or comments from the Board.
- o. The Chair shall close the hearing and invite the Board to deliberate.
- p. The Board shall ascertain the cost of on and off-site improvements and require security in that amount as a condition of approval.
- q. The board shall establish any conditions of approval.
- r. The Board shall vote to approve, approve with conditions, or disapprove. If disapproved, the Board shall provide the reasons for disapproval to the applicant in writing.

10.2.2 Non-Appealance. An applicant who does not appear, or is not represented by an authorized agent, or has not requested a continuation at the hearing that has been duly noticed shall have his/her application automatically disapproved. It shall be the applicant's responsibility to reinitiate the process and pay all fees due.

XI JOINT MEETINGS AND HEARINGS

11.1 Procedures. The planning Board may hold joint meetings and hearings with other land use boards such as the Zoning Board of Adjustment (ZBA). Each Board shall have discretion whether or not to hold such joint meeting or hearing.

Joint business meetings with any other boards may be held at any time when called jointly by the chairs of the boards.

A joint public hearing must be a formal public hearing when the subject matter of the hearing is within the responsibilities of the boards convened.

The Planning Board Chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board.

The rules of procedure for joint meetings and hearings, the subject matter of which involves the Planning Board, shall be the same as these rules of procedure except that the rules may be changed at the request of the other board.

Each board involved in a joint public hearing shall deliberate and vote on its decision separately based on its criteria for a particular matter.

XII RECORDS

- 12.1 Records.** The records of the board shall be kept by the Land Use Board Coordinator and made available for public inspection at the Town Office Building in accordance with **RSA 91-A**.
- 12.2 Tape Recording.** All public hearings shall be recorded on tape or other electronic device and the tapes shall be retained by the Board for one year. Other meetings of the Board may be recorded.
- 12.3 Minutes.** Minutes of the Board meetings shall be kept in accordance with the provisions of **RSA 91-A**, and shall be made available within 144 hours (6 days) for public inspection. The minutes shall include a statement of each event that occurred and a concise summary of what each person said. The tape recordings shall be used in the preparation of the minutes to ensure accuracy. Minutes which have been approved by the Board shall be deemed to be the official record of the meeting or hearing to which they relate.
- 12.4 Approval of Minutes.** Minutes shall be put in the hands of members within 144 hours (6 days) of the meeting. At the next meeting the minutes shall be discussed and approved or disapproved. Members absent from the meeting in question may not comment and vote on the minutes.
- 12.5 Index.** The Secretary or Land Use Board Coordinator shall maintain an index to the minutes. All subjects discussed by the board shall be indexed and Case Numbers assigned to each of those subjects. For Subdivisions and Site Plan Review, the subject line will contain the owners name and any other identifying words such as the business or subdivision name (*This information to be extracted from the public announcement for the hearing*). The index structure shall be such that all references to discussions within the minutes on any given subject can be retrieved as a unit.

The information is to be kept on the town's administrative computer network with a minimum of weekly automatic backup. An updated hard copy should be printed and stored in the vault twice a year. An updated copy of the file should be distributed on disk

to all members at the same time.

- 12.6 Storage.** The original paper copy of the approved minutes and the index shall be stored in the town's fireproof vault at all times. Additional copies, such as those in the minute book may be kept in the offices for convenience.

XIII COMMITTEES

- 13.1** Committees shall be created by majority vote of the Board. The Chair shall appoint the committee members and the chair. Members need not be members of the Board, but the chair shall be a member of the Planning Board. Committee meeting notices and minutes shall comply with RSA 91-A:2.

XIV FORMS

- 14.1** All application forms and other forms used and required by the Board in carrying out its duties shall be formally adopted by the Board, and by reference and usage shall become part of these rules of procedure.

XV APPLICATION FEES

- 15.1** Application and permit fees which the Board may impose in the course of its business shall be formally adopted by the Board, and by reference and usage shall become part of these rules of procedure. Fee schedules shall be promulgated to the public on application forms, hand-out sheets, or by any other means specified by the Board.

XVI AMENDMENTS

- 16.1** These rules of procedure may be amended by vote of a majority of all the regular members of the board provided that a printed copy of such amendment(s) is in the hands of each member one week or more immediately preceding the meeting at which the vote is to be taken. After approval of any amendments, the chair shall file a copy of the amended rules with the Town Clerk, provide a copy to the Board of Selectmen, and provide a copy to each member and alternate.

Revision History: